

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of:

KOJIMA et al.

Application No. PCT/JP 01/10905

Art Unit: Unassigned

Examiner: Unassigned

Filed: December 12, 2001

Earliest Priority Claimed December 14, 2000

RECEIVED

20 APR 2005

For: **WAVELENGTH CONVERSION METHOD,
WAVELENGTH DEVICE, AND LASER
BEAM MACHINE**

Legal Staff
International Division

**PETITION PURSUANT TO 37 CFR 1.137(b) TO
REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION**

Commissioner for Patents
U.S. Patent and Trademark Office
PCT Legal Staff
220 20th Street S. Customer Window, Mail Stop PCT
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Dear Sir:

The referenced application was unintentionally abandoned.

Applicants petition to revive this application pursuant to 37 CFR 1.137(b) and submit the appropriate fee pursuant to 37 CFR 1.17(m). The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. Proper papers for filing a National Phase application are attached. No Terminal Disclaimer is required because the international filing date is after June 8, 1995.

Applicants attempted to file a U.S. National Phase application corresponding to the international application identified above on August 14, 2002. However, through an inadvertent error, the international application identified above was not identified in the filing made. Instead, reference was made to another, related international application identified in the caption above claims priority from the international application identified in the filing made August 14, 2002.

04/26/2005 CSM00T 00000002 121216 10511170
10511170 121216 10511170
01 FC:1617 130.00 DA 190.00 DA

Initially, a Japanese national patent application, JP 2000-379925, was filed in Japan on December 14, 2000.

03/19/2004 SHAJARRD 00000021 121216 10511170

01 FC:1453 1370.00 DA

On September 3, 2001, a first international application was filed, PCT/JP 01/0785. That international application, subsequently published as WO 02/48787, identified four inventors.

On December 12, 2001, PCT/JP 01/10905 was filed identifying seven inventors. That second international application claimed the priority of the first international application filed September 3, 2001, as well as the priority of the Japanese national application filed December 14, 2000. The second-filed international application was published as WO 02/48786. The Applicants of the two international applications were the same, but the second international application named three additional inventors not named in the first international application. Both international applications designated the United States.

The undersigned was instructed in August of 2002 to file a National Phase U.S. patent application corresponding to PCT/JP 01/10905. In response to that instruction, a U.S. National Phase application was filed on August 14, 2002 and assigned application number 10/203,785. The U.S. patent application was filed without a Declaration. All of the papers accompanying the U.S. patent application filed August 14, 2002 incorrectly identified PCT/JP 01/0785 as the international application. Through error, there was never any reference in this U.S. filing to the second-filed international application.

A Notice of Missing Requirements was issued by the U.S. Patent and Trademark Office on October 2, 2002 and responded to by the filing of a Declaration on November 21, 2002. The Declaration was correct as to the second international application, but incorrect as to the first international application, the international application identified upon the filing of the U.S. patent application. The U.S. Patent and Trademark Office replied on February 28, 2003 with a Notification of Defective Response, pointing out that the fifth, sixth, and seventh inventors identified on the second-filed International application and properly identified on the Declaration that was submitted did not appear on the published patent application for the first international application, namely WO 02/48787. The Declaration that had been submitted in U.S. application 10/203,785 was correct in every respect with regard to the second-filed international application for which the U.S. application was intended to be a National Stage application.

The undersigned filed a reply to the Notice of Defective Response on March 5, 2003, asserting that the Notification of Defective Response was incorrect. This response was based upon consultation with the published version of the second-filed PCT patent application, WO 02/48786, then available in the undersigned's file and which fully agreed with the Declaration that was filed. The error in the U.S. filing was not then discovered.

After the filing of the Reply on March 5, 2003, no further communication concerning the U.S. patent application was received until the week of September 27, 2004. During that

week, the undersigned was contacted by Vonda Wallace of the Office of PCT Operations. Through several telephone calls, for the first time, the undersigned became aware of the error in the filing made August 14, 2002. Pursuant to the discussion during the telephone conversations, a Notification of Abandonment of the U.S. patent application was mailed on October 6, 2004.

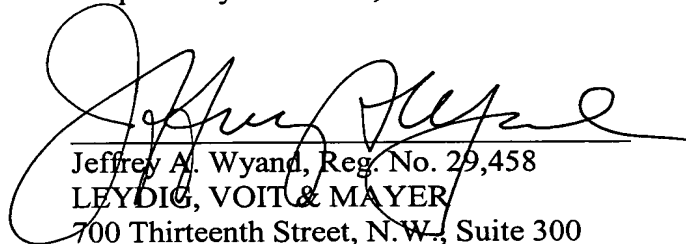
Clearly, since a defective but timely attempt was made to file a National Stage application for PCT/JP 01/10905, the National Phase of the second-filed international application was abandoned unintentionally. In fact, in terms of disclosure, U.S. patent application filed August 14, 2002 is identical to the desired National Phase application just as the Declaration that was filed correctly identified the international application for which a National Phase application was intended to be filed. Therefore, the entirely delay in filing the correct application papers until the filing of this grantable Petition, pursuant to 37 CFR 1.137(b), was unintentional.

Attached to this Petition are the appropriate papers for establishing a National Phase application corresponding to PCT/JP 01/10905. Attached are a Specification, consisting of 52 pages of description, 1 page of abstract, and 5 pages of claims, 12 sheets of drawings, an Application Data Sheet, a Transmittal letter, a Preliminary Amendment, a Declaration, and an Information Disclosure Statement including 5 publications and a copy of the International Search Report for PCT/JP 01/10905. All of these documents are identical to the documents filed in U.S. application 10/203,785, with the exception that the correct international application is identified, and two Information Disclosure Statements have been consolidated. It is requested that upon granting of this Petition, that a new U.S. patent application be established with a new U.S. application number as a National Phase application of international application PCT/JP 01/10905. The application fee for the filing of this U.S. application should be charged to deposit account 12-1216.

In re Appln. of KOJIMA et al.
Application No. PCT/JP 01/10905

The Commissioner is authorized to charge any fees associated with this communication and to credit any excess payment to Deposit Account No. 12-1216. A duplicate copy of this Response is attached.

Respectfully submitted,



Jeffrey A. Wyand, Reg. No. 29,458
LEYDIG, VOIT & MAYER
700 Thirteenth Street, N.W., Suite 300
Washington, DC 20005-3960
(202) 737-6770 (telephone)
(202) 737-6776 (facsimile)

Date:

October 14, 2004

JAW:tps